

Court of Appeals, State of Michigan

ORDER

Richard Grubola v Tapco International Corp

Docket No. 260778

LC No. 03-318496-NZ

Christopher M. Murray
Presiding Judge

Helene N. White

Brian K. Zahra
Judges

The Court orders that the motion for immediate consideration is GRANTED.

The Court further orders, pursuant to MCR 7.205(D)(2), that the December 13, 2004, order of the Wayne Circuit Court denying summary disposition to defendant is hereby VACATED IN PART, and plaintiff's retaliation claim is remanded for reconsideration by the trial court. The trial court shall determine on remand whether any reasonable juror could conclude that plaintiff's June 20, 2001 memo constituted protected activity given the lack of any statement in that memo that plaintiff thought he was being discriminated against because of his age. *Barrett v Kirtland Community College*, 245 Mich App 306, 318-319; 628 NW2d 63 (2001); *Mitan v Neiman-Marcus*, 240 Mich App 679, 682; 613 NW2d 415 (2000). The case is REMANDED to the circuit court for further proceedings consistent with this order.

In all other respects, the application for leave to appeal is DENIED for failure to persuade the Court of the need for immediate appellate review.

The Court retains no further jurisdiction.

Judge White would DENY the application for leave to appeal in its entirety.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

APR 14 2005

Date

Sandra Schultz Mengel
Chief Clerk